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Crl.R.C.Nos.308 and 318 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE : 28.04.2025

CORAM:

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

Crl.R.C.Nos.308 and 318 of 2021

Dr.M.Kailasam

... Petitioner/Accused in
Crl.R.C.No.308 of 2021

Dr.Poonguzhali

W/o.Dr.M.Kailasam

... Petitioner/Accused in
Crl.R.C.No.318 of 2021

Versus

K.C.Sugumaran

... Respondent/Complainant
in both Crl.R.Cs.

PRAYER : Criminal Revision Petitions filed under Sections 397 r/w 401 of Cr.P.C., praying to set aside the judgment dated 05.01.2021 made in C.A.Nos.32 and 31 of 2019, respectively, on the file of the learned Principal Sessions Judge, Vellore, Vellore District confirming the judgment dated 15.03.2019 in S.T.C.Nos.35 and 36 of 2018, respectively, on the file of the learned Judicial Magistrate, Fast Track Court, Vellore, Vellore District.

For Petitioner : Mr.K.Sathish Kumar
in both Crl.R.Cs.

For Respondent : Mr.Arun Anbumani
in both Crl.R.Cs.



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COMMON ORDER

The petitioners/Accused in S.T.C.Nos.36 and 35 of 2018, respectively, were convicted by the trial Court by the judgment dated 15.03.2019 on the complaint filed by the respondent for offence under Section 138 of the Negotiable Instruments Act. The petitioner/Dr.M.Kailasam was sentenced to undergo one year simple imprisonment and directed to pay the cheque amount of Rs.6,00,000/- as compensation to the respondent along with 6% interest from the date of the complaint. The petitioner/Dr.Poonguzhali was sentenced to undergo one year simple imprisonment and directed to pay the cheque amount of Rs.10,10,000/- as compensation to the respondent along with 6% interest from the date of the complaint. Aggrieved against the same, the petitioners preferred an appeal in Crl.A.Nos.32 and 31 of 2019, respectively, before the learned Principal Sessions Judge, Vellore. The learned Principal Sessions Judge, by the judgment dated 05.01.2021,

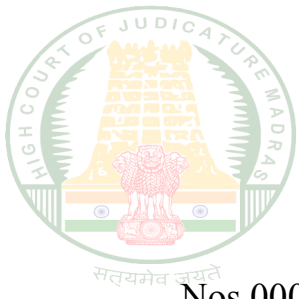


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dismissed the appeals confirming the conviction and sentence of the trial Court, against which, the present revisions are filed.

2.The gist of the case is that Dr.M.Kailasam/petitioner in Crl.R.C.No.308 of 2021 and his wife Dr.Poonguzhali//petitioner in Crl.R.C.No.318 of 2021 are well known to the complainant and the petitioners for their urgent family needs and medical expenses and for the business expansion borrowed various amounts from the respondent by way of e-transfer on various dates starting from 04.02.2017 till 24.02.2017. Thus, as on 21.09.2017, the petitioner/Dr.M.Kailasam and his wife/Dr.Poonguzhali borrowed a total sum of Rs.16,10,000/-. When the respondent insisted for re-payment of the above amount, the petitioners jointly and severally executed a promissory note on 21.09.2017 in the presence of witnesses and also agreeing to repay the amount of Rs.16,10,000/- with subsequent interest at the rate of 24% per annum. In discharge of the said liability, they issued three cheques. The petitioner/Dr.Poonguzhali issued two cheques bearing



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Nos.000077 and 000078 both dated 20.10.2017 for a sum of Rs.5,10,000/-

and Rs.5,00,000/-, respectively and the petitioner/Dr.M.Kailasam issued a cheque bearing No.773109 dated 20.10.2017 for a sum of Rs.6,00,000/-.

When the cheques got dishonoured, following the statutory conditions complainant was filed.

3.During trial, the complainant examined himself as PW1 and marked Exs.P1 to P10. On the side of the defence, two witnesses examined as DW1 and DW2 and marked Exs.D1 and D2.

4.The contention of the petitioners is that the respondent claims himself to be a money lender, taking advantage of the position of the petitioners as Doctors, who got good reputation among the public, had been demanding exorbitant interest. The respondent is not a registered money lender, hence he cannot claim any interest and that too exorbitant interest. The amount repaid have not been given due credit. On the other hand using



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the security cheques, the respondent filled up on its own and making huge demand from the petitioners. Both the Courts below failed to consider these aspects and convicted the petitioners only on the ground, the issuance of cheques and signature not seriously disputed by the petitioners.

5.The learned counsel for respondent/complainant submitted that both the petitioners are well educated persons, who had taken loan from the respondent and the respondent had given loan only through Bank, which are recorded. In fact, for two persons to whom the petitioners were having business dealings, the amount was transferred to them at the request of the petitioners. The entire amount paid only through Bank. Had the petitioners repaid the entire amount, they should have some records but no records produced except for oral statement. Both the Courts below found that the petitioners' contention is without any materials, on the other hand the petitioners not denied issuance of cheques and signature but only taking a stand that it is a security cheques, which is not supported with any materials.



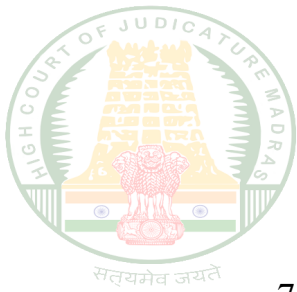
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Hence, convicted the petitioners.

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6.Be that as it may. Now both the petitioners and respondent had come to an understanding. Pursuant to the agreement, the respondent by way of Demand Draft paid a sum of Rs.19,10,000/- on various dates, the details of which are as follows:

<i>Srl.No.</i>	<i>Demand Draft No.</i>	<i>Date</i>	<i>Amount</i>
1.	339433 The Federal Bank Limited, Kulathukadu Branch	02.01.2023	Rs.4,00,000/-
2.	299069 The Federal Bank Limited, Adyar Branch, Chennai	28.02.2025	Rs.1,00,000/-
3.	299070 The Federal Bank Limited, Adyar Branch, Chennai	28.02.2025	Rs.4,00,000/-
4.	071181 The Federal Bank Limited, Kalingarayan Pala Branch	15.03.2025	Rs.2,50,000/-
5.	292817 State Bank of India Vellore Branch	20.04.2025	Rs.2,50,000/-
6.	505793 Indian Bank Madras High Court Branch	28.04.2025	Rs.5,10,000/-
Total			Rs.19,10,000/-



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7. During the pendency of the appeal before the Sessions Court, the petitioners have deposited Rs.2,00,000/- each on 21.02.2020 before the Principal District Court, Vellore. A scanned reproduction of the same reads as follows:

conditional order Amount
Crl.Misc.61-A/H.C.P.P., Ch.104/Feb-2005
FOIL

No. **69914**

(Form of receipt to be granted by the Court)

IN THE COURT OF THE **Principal District Judge, VELLORE-9,**

Received this **21st.** day of **February, 20**

from **kailasam s/o Maximuthu**
[Tr.K. Balachondar, Advocate]

son of the

sum of Rs. **2,00,000** (Rupees two Lakhs only) being

Conditional order Amount in CA.32/19
as per order of the Hon'ble High Court
Court, Madras in Crl.R.Nos.1303
the whole/part of the 132/20 & Crl. MP. 10954
1104/20 dated: 28.1.2020

Rs. 2,00,000

Chief Administrative Officer,
Principal District Court,
Vellore.

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Conditional Order Amount
CrI Misc. 61-A/H.C.P.P., Ch.104/Feb-2005
FOIL

No. **69913** (Form of receipt to be granted by the Court)

IN THE COURT OF THE **Principal District Judge.**
VELLORE-9.

Received this **21st** day of **February, 2020**

from **Poonguzali w/o. Kailasam**
[Tr. K. Balachandar, Adv..]

son of the

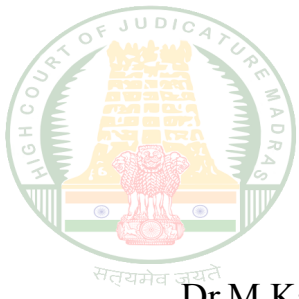
sum of Rs. **2,00,000/-** Rupees Two being
1 Lakh only

Conditional Order Amount in C.A. 31/14
as per the order of the Hon'ble High
the whole/part of the court, Madras in CrD.R.
NOS. 150 & 152/20 & CrD. MP. 1095 &
1104/20 dt 28-1-2020

Rs. **2,00,000/-**

Chief Magistrate/Judge
Administrative Officer,
Principal District Court,
Vellore.

8.The respondent agreed to receive the principal amount of Rs.10,10,000/- + interest amount of Rs.2,00,000/- from Dr.Poonguzhali and principal amount of Rs.6,00,000/- + interest amount of Rs.1,00,000/- from



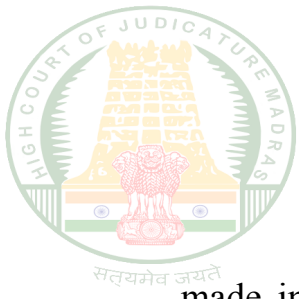
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Dr.M.Kailasam (in total, Rs.19,10,000/-) and already the petitioners deposited Rs.2,00,000/- each (Rs.4,00,000/-) at the time of appeal. Thus, in total, the petitioners have paid a total amount of Rs.23,10,000/-.

9.This Court, on 28.02.2025, permitted the respondent to withdraw the amount of Rs.4,00,000/- (Rs.2,00,000/- in each of the criminal appeal) deposited by the petitioners before the Lower Court. Today, the learned counsel for respondent filed a Memo/petition invoking Section 147 of the Negotiable Instruments Act, 1881 for compounding the offence.

10.In view of the compromise arrived at between the parties and considering the petition under Section 147 of the Negotiable Instruments Act, the offence under Section 138 of the Negotiable Instruments Act in S.T.C. Nos.35 and 36 of 2018 is compounded.

11.In the result, the case between the petitioners and the respondent are compounded. Hence, the judgment dated 05.01.2021



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made in Crl.A.Nos.32 and 31 of 2019 on the file of the learned Principal Sessions Judge, Vellore, confirming the judgment dated 15.03.2019 made in S.T.C.Nos.35 and 36 of 2018 on the file of the learned Judicial Magistrate, Fast Track Court, Vellore, is set aside and the revisions are, accordingly, allowed. The revision petitioners discharged for the offence under Section 138 of the Negotiable Instruments Act.

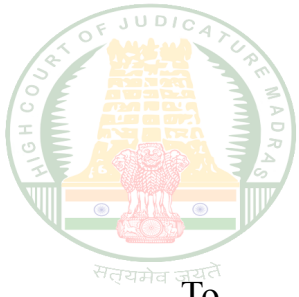
28.04.2025

Index : Yes / No

Internet : Yes/No

Speaking / Non-speaking order

rsi



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To
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- 1.The Principal Sessions Judge,
Vellore.
- 2.The Judicial Magistrate,
Fast Track Court, Vellore.
- 3.The Public Prosecutor,
High Court, Madras.



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M.NIRMAL KUMAR, J.

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